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Message Text

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AMCONSUL CAPE TOWN NIACT IMMEDIATE
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AMEMBASSY PRETORIA IMMEDIATE

C O N F I D E N T A I L SECTION 01 OF 02 USUN NEW YORK 01487

EXDIS HANDLE AS NODIS

FOR EMBASSY CAPE TOWN

FOR THE SECRETARY FROM MCHENRY, MOOSE, HANSEL AND HELMAN

E.O. 11652: GDS
TAGS: PDEV, SA, WA
SUBJECT: RECOMMENDATIONS FOR MEETING SAG CONCERN ABOUT
FINAL TROOP WITHDRAWAL

REF: SECTO 4095

1. IN CONSIDERING THE PROPOSED UK LANGUAGE WE RECALLED THE EXTENSIVE EARLIER DISCUSSION IN THE CONTACT GROUP. AT THAT TIME, THE UK INSISTED THAT WE HANDLE THE TROOP WITHDRAWAL ISSUE BY MAKING AN ORAL STATEMENT TO THE SAG TO THE EFFECT THAT SHOULD THE CONSTITUENT ASSEMBLY REQUEST THE SAG TO MAINTAIN A TROOP PRESENCE IN NAMIBIA AFTER THE DATE FOR THE FINAL WITHDRAWAL OF SAG TROOPS, THE CONTACT GROUP WOULD SUPPORT THIS REQUEST. WE ARGUED THAT THE MOST THE CONTACT GROUP SHOULD SAY IS THAT WE WOULD NOT OPPOSE SUCH A REQUEST. THE FRG REPRESENTATIVE HERE STATES THAT BONN IS PARTICULARLY CONCERNED TO HOLD THE LINE ON THIS POINT SINCE
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DURING HIS RECENT VISIT TO TANZANIA, GENSCHER WAS TOLD BY NYERERE THAT THE PROPOSAL WOULD BE UNACCEPTABLE IF SOUTH AFRICAN TROOPS WERE NOT DEFINITELY WITHDRAWN UPON CERTIFICATION OF THE ELECTIONS. IN THE OUTCOME, THE UK WITHDREW ITS PROPOSAL AND PUT FORWARD THE ALTERNATIVE FORMULATION ("THE CONSTITUENT ASSEMBLY MIGHT WISH TO EXPRESS ITS OPINION ON THIS MATTER") WHICH WAS ACCEPTED BY THE CONTACT

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GROUP AND USED WITH THE SAG. THE TENDENTIOUS INTERPRETATIONS OF THIS STATEMENT WHICH SUBSEQUENTLY APPEARED IN THE SOUTH AFRICAN PRESS DEMONSTRATED THE NEED TO HANDLE THIS ISSUE WITH EXTREME CAUTION, GIVEN ITS SENSITIVITY WITH SWAPO.

2. IN TRYING TO COME TO GRIPS WITH SUITABLE LANGUAGE ON THIS ISSUE, THE CONTACT GROUP ALSO HAD TO KEEP IN MIND SWAPO'S DESIRE TO CONVERT THE CONSTITUENT ASSEMBLY INTO A LEGISLATIVE BODY WHICH WOULD RENDER UNNECESSARY ANY FUTURE ELECTIONS TO CHOOSE A GOVERNMENT PRIOR TO INDEPENDENCE. IN SHORT, A CONSTITUENT ASSEMBLY WHICH FOR SOUTH AFRICA COULD REQUEST RETENTION OF SOUTH AFRICAN FORCES WOULD ALSO BE A CONSTITUENT ASSEMBLY WHICH FOR SWAPO COULD DECLARE INDEPENDENCE AND REQUEST THE UN TO WITHDRAW OR REQUEST THE WITHDRAWAL OF ALL SOUTH AFRICAN OFFICIALS. SUCH AN ASSEMBLY WOULD ALSO BE LESS INCLINED TO FACE THE NEED TO ACCOMMODATE THE VIEWS OF THE MINORITY. (DURING MCHENRY'S VISIT TO WINDHOEK, MUDGE OF DTA SPECIFICALLY REJECTED THE IDEA OF LEAVING SUCH AUTHORITY TO THE CONSTITUENT ASSEMBLY, ALTHOUGH HE, TOO, WAS CONCERNED ABOUT THE WITHDRAWAL OF SOUTH AFRICAN FORCES.) WE SOUGHT TO DEAL WITH THIS PROBLEM BY AVOIDING LANGUAGE WHICH SUGGESTS THAT THE DECISIONS OF THE CONSTITUENT ASSEMBLY CAN BE BINDING AS FAR AS THE UN'S RESPONSIBILITIES ARE CONCERNED.

3. NOTWITHSTANDING THESE CONSIDERATIONS ONE MIGHT CONSIDER CONFIDENTIAL

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REVISING GRAHAM AND STEELE LANGUAGE AS FOLLOWS (HOWEVER, AS NOTED IN PARA 7 BELOW, WE BELIEVE EVEN THIS REVISION IS A NON-STARTER FOR SEVERAL REASONS):
"THE FIVE GOVERNMENTS RECOGNIZE THAT ONCE THE CONSTITUENT ASSEMBLY, DULY ELECTED BY THE PEOPLE OF NAMIBIA ON THE BASIS OF THE CONTACT GROUP PROPOSAL AND IN CONFORMITY WITH RESOLUTION 385, HAS BEEN CONSTITUTED, IT WILL HAVE THE RIGHT TO EXPRESS ITS VIEWS, BY RESOLUTUION OR IN ANY OTHER WAY, ON ALL ISSUES RELEVANT TO THE FUTURE OF NAMIBIA. THE FIVE POWERS WOULD TAKE SUCH VIEWS CAREFULLY INTO ACCOUNT AND WOULD EXPECT OTHERS TO DO THE SAME, WITH THE UNDERSTANDING THAT THIS WOULD NOT RESULT IN ANYTHING WHICH WOULD PREJUDICE OR TEND TO PREJUDICE THE INTERNATIONAL STATUS OF THE TERRITORY IN ADVANCE OF INDEPENDENCE."

4. IN ADDITION TO THE CONSIDERATIONS LISTED IN PARA 1 ABOVE, THE ABOVE REVISION OF THE UK TEXT REFLECTS THE FOLLOWING THOUGHTS:

A. FIRST UK SENTENCE STRUCK US AS UNDULY APOLOGETIC REGARDING EFFORTS OF CONTACT GROUP AND THE PROPOSAL. WE HAVE ADDED THE REFERENCE TO THE PROPOSAL AND RESOLUTION

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385 TO OUR REVISED VERSION OF SENTENCE TWO;

B. WE SUBSTITUTED THE WORDS "THE FUTURE OF NAMIBIA" FOR "PROPOSALS" AT THE END OF FIRST SENTENCE REFLECTING OUR VIEW THAT BY THE TIME THE CONSTITUENT ASSEMBLY MEETS THE PROPOSAL WILL BE WELL ALONG THE WAY TO IMPLEMENTATION AND THE CONSTITUENT ASSEMBLY'S FUNCTION WILL BE TO TAKE DECISIONS BEARING ON THE COUNTRY'S FUTURE.

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FOR EMBASSY CAPE TOWN

FOR THE SECRETARY FROM MCHENRY, MOOSE, HANSEL AND HELMAN

C. WE HAVE REAL PROBLEMS WITH THE FORMULATION IN THE UK DRAFT OF THE THIRD SENTENCE THAT "SUCH VIEWS WOULD BE RESPECTED BY THE PARTIES TO THE AGREEMENT."

DEPARTMENT DOES NOT BELIEVE THAT FIVE POWERS CAN ALLOW CONSTITUENT ASSEMBLY'S RESOLUTIONS TO BE BINDING IN THIS FASHION; NOR CAN THEY MAKE SUCH AN UNDERTAKING FOR THE PARTIES, WHICH WE ASSUME TO BE SWAPO AND SAG, DIRECTLY, AND THE FRONT-LINE STATES, INDIRECTLY. OUR REVISED LANGUAGE IS AIMED AT AVOIDING THIS PROBLEM.

5. AS NOTED REFTEL, PROPOSED STATEMENT ON WITHDRAWAL ISSUE WOULD HAVE CERTAIN PARALLELS WITH THE PROPOSED STATEMENT ON WALVIS BAY, BUT ONLY AS REVISED IN PARAGRAPH 3 ABOVE. (OUR WALVIS BAY FORMULATION, WHICH THE UK DOES NOT

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NOW SUPPORT, MAKES NO COMMITTMENT TO SWAPO ON THE OUTCOME
OF NEGOTIATIONS, WHEREAS THE UK FORMULATION
COMMITS US TO ABIDING BY THE VIEW OF THE CONSTITUENT AS-
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SEMBLY.) IF SUCH A STATEMENT WERE TO BE USED WE SHOULD
SEEK FIRST UK AND THEN CONTACT GROUP AGREEMENT TO USE THIS
STATEMENT IN MANNER NOT UNLIKE WAY IN WHICH WE USED OUR
WALVIS BAY STATEMENT, I.E., MAKING IT CONTINGENT UPON THE
INTERESTED PARTY'S ACCEPTANCE. THIS COULD INVOLVE PRIVATE
APPROACH TO SAG IN WHICH WE MIGHT NOTE THEIR CONCERNS
ON THE QUESTION OF SOUTH AFRICAN TROOP WITHDRAWAL AND HAVE
SOUGHT TO DEAL WITH THEM IN A POSITIVE MANNER. WE WOULD
STATE THAT IN ORDER TO MAKE IT POSSIBLE FOR THE SAG TO
ACCEPT THE CONTACT GROUP PROPOSAL, THE FIVE POWERS WOULD
BE PREPARED TO MAKE THE ABOVE STATEMENT (PARA 3) IN THE
SECURITY COUNCIL FOLLOWING THEIR ANNOUNCEMENT THAT THE
PROPOSAL IS ACCEPTABLE.

6. LANGUAGE IN PROPOSED STATEMENT WOULD BE OPEN TO ARGU-
MENT THAT IT MODIFIES CG PROPOSAL IN THAT POWERS OF CON-
STITUENT ASSEMBLY HAVE BEEN EXPANDED BEYOND DRAFTING OF
CONSTITUTION TO PERMIT ASSEMBLY TO MODIFY OTHER ASPECTS
OF CG PROPOSAL, NOT DEALING WITH SOUTH AFRICAN TROOP
PRESENCE. PROCEDURES FOR PLACING STATEMENT (AND ANY OTHER
CLARIFYING STATEMENT) ON RECORD WOULD BE NECESSARY. SINCE
IT COULD BE ARGUED THAT STATEMENT IS AT VARIANCE WITH
ASPECTS OF PROPOSAL ITSELF, STATEMENT WOULD HAVE TO BE
PUT FORWARD IN MANNER THAT WOULD ALLOW IT TO BE
READ AS HAVING STATUS SOMEWHAT ON A PAR TO PROPOSAL ITSELF.
THIS MIGHT BEST BE DONE BY PUTTING STATEMENT ON RECORD
BEFORE SC ADOPTS PROPOSAL AND BY ENSURING, AS
BEST POSSIBLE, THAT NO COUNTER-STATEMENT IS MADE. PRIOR
CONSULTATIONS WITH AND AGREEMENT OF ALL PARTIES ON MEAN-
ING OF STATEMENT WOULD BE IMPORTANT OR THE STATUS OF
STATEMENT WOULD BE DIMINISHED AND MIGHT NOT MEET SA NEEDS.

7. BY AGREEING TO THE UK DRAFT WE WOULD GIVE THE
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CONSTITUENT ASSEMBLY THE SOVEREIGN POWERS OF A STATE, A
ROLE WHICH THE CONTACT GROUP PROPOSAL NEVER INTENDED. ON
THE OTHER HAND THE POSSIBLE REVISED LANGUAGE (PARA
3) WOULD HAVE NO BINDING EFFECT ON THE ADMINISTRATOR
GENERAL AND THE SPECIAL REPRESENTATIVE AND WOULD NOT ALTER
THE MANDATE GIVEN BY THE SECURITY COUNCIL. BOTHA

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WOULD IMMEDIATELY PERCIEVE THIS AND WOULD FIND IT INADE-
INADEQUATE, ALTHOUGH WE ALSO RECOGNIZE THAT HE
MIGHT FIND SOME POLITICAL UTILITY IN THE AGREEMENT OF
THE FIVE TO SUPPORT EXPRESSIONS OF THE CONSTITUENT AS-
SEMBLY. WHILE BOTHA MIGHT FIND THE PROPOSED LANGUAGE
MARGINALLY ACCEPTABLE AND THIS MIGHT BE DECISIVE IN SOUTH
AFRICA'S DECISION, WE MUST WEIGH THESE POSSIBLE GAINS
AGAINST THE ADDITIONAL CONCERNS WHICH WOULD SURELY ARISE
AMONG THE AFRICANS SHOULD WE MAKE A CHANGE AT THIS STAGE.
WE BELIEVE THE RISKS ARE SUBSTANTIAL. LEONARD

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